IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 21609 of 2007(Y)

PETITIONER:

1. DHANYA MANOJ, AGED 28 YEARS,
   KANNATHARAYIL HOUSE, P.O.ELANJIPARA,
   CHALAKUDY VIA, THRISSUR.

2. REKHA JACOB, AGED 30 YEARS,
   W/O.SANJAY PATTATH, PATTATH HOUSE,
   AVITTATHUR, IRINJALAKUDA, MUKUNDAPURAM,
   THRISSUR.

3. ANJU JOMON, AGED 23 YEARS,
   KALLIVALAPPIL HOUSE, WEST CHALAKKUDY,
   THRISSUR.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
   THE CHIEF SECRETARY, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
   OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTIONS,
   THIRUVANANTHAPURAM.

3. MARIYA TRAINING COLLEGE, KODAKARA,
   THRISSUR, REP. BY ITS MANAGER.

4. THE MANAGER, MARIYA TRAINING COLLEGE,
   KODAKARA, THRISSUR.

ADDITIONAL 5TH RESPONDENT:

5. THE REGIONAL DIRECTOR, NCTE, BANGALORE-31.
   (R5 IMPLEADED AS PER ORDER DTD.18.8.07).

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/08/2007, ALONG WITH WPC NO. 21880 OF 2007 AND CONNECTED CASES THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).Nos.21609, 21880, 22345,
23751, 23965, 24238, 24928 &
25331 of 2007

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Dated this the 21st day of August, 2007

J U D G M E N T

In all these writ petitions the petitioners are students who claim to have obtained admission to teachers' training course (TTC) on the basis of the prospectus issued by the Government fixing the minimum eligibility marks in the qualifying examination as 45 per cent. They are now threatened with losing the admission on the basis of a subsequent erratum notification fixing the minimum eligibility marks as 50% instead of 45%.

2. The issue arose in the following factual scenario:- The Director of Public Instruction (DPI) issued a prospectus for admission to TTC this year, in which the eligibility condition was that the candidates aspiring for admission should have secured minimum 45 per cent mark in the qualifying examination. Later on, realising that the minimum marks prescribed by the National

Council for Teacher Education (NCTE) is 50 per cent, the DPI sought to correct the same by issuing an erratum notification to all the institutes in which admissions were to be made. According to the petitioners, that erratum notification was issued subsequent to the completion of the admissions, whereas the Government would submit that the same was issued prior to the last date prescribed for admissions. Petitioners, therefore, seek regularisation of their admissions on the ground that they have obtained admission on the basis of the prospectus issued by the Government on the ground that if they are to be held not eligible for admission, they would be nowhere this year as they would not be able to get admission for any other course for no fault of theirs.

3. The learned Government Pleader would submit that in so far as the NCTE has prescribed the minimum qualifying marks for admission to TTC as 50% in the qualifying examination, the Government has no power to fix a lower minimum and therefore, even assuming that the DPI had committed a mistake while issuing the prospectus, that mistake cannot be perpetuated by

allowing ineligible students to continue studies.

4. I have considered the rival contentions in detail.

5. It is settled law that the NCTE Act would override any other law on the subject made by the State in so far as the NCTE Act is a Central Legislation. Of course, going by the Supreme Court decisions on the subject, the State may be entitled to fix a higher eligibility qualifications, but they cannot relax the standards prescribed by the NCTE by prescribing a lower eligibility criterion. Therefore, I am satisfied that irrespective of the mistake committed by the Government, the petitioners cannot get relief in these writ petitions as it is an admitted fact that the minimum eligibility condition prescribed by the NCTE is 50 per cent marks in the qualifying examination.

6. However, the learned counsel for the petitioners submit that the National Council for Teacher Education Regulations 2005, contains a provisions whereby the NCTE has power to relax any of the conditions prescribed by the regulations which include minimum eligibility criterion for admission. He would point out that by invoking clause 10 of the Regulations, the Self Financing Teachers Training Institutions' Management in

Kerala had taken up the matter with the NCTE, who had intimated them that power under clause 10 can be exercised by the NCTE only at the instance of the Government and therefore, they may prevail upon the Government to apply for relaxation under clause 10 of the Regulation. The Association is stated to have filed a representation before the Government dated 8.8.2007 in this regard. The petitioners now seek a direction to the Government to take up the matter with the NCTE for relaxation in view of the peculiar circumstances which arose on account of the mistake committed by the DPI in publishing a prospectus prescribing 45 per cent as minimum marks, pursuant to which only the petitioners are stated to have gained admission.

7. In the facts and circumstances of the case, I dispose of these writ petitions within a direction to the Government to consider whether, in the facts and circumstances of the case, it is necessary to request the NCTE for relaxing the eligibility criteria, in view of the peculiar situation obtaining in the case. The Government shall take a decision in this regard within a period of one month from the date of receipt of a copy of this judgment. If

they decide to seek such relaxation, the same shall also be done expeditiously so as to enable the petitioners to continue the studies, if the NCTE is inclined to consider the request favourably.

The writ petitions are disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.